IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4955 OF 2004

Smt.Pushpa Baburao Pawar & Ors. ...Petitioners

Versus

Shri Balu Babu Dalvi & Ors. ...Respondents

.....

Mr.J.S.Kini for Petitioners.

None for Respondents.

.....

CORAM: A.M.KHANWILKAR, J.

AUGUST 26, 2004.

P.C.

1. Heard Mr.Kini for Petitioners. I find no reason to interfere with the discretionary order passed by the Court below at the interlocutory stage.

2. Grievance of Mr.Kini is that, the Court below has proceeded to decide the issue against the Petitioners mainly relying upon the decision in the Reg.Civil Suit No.46/82. I find no substance in this submission - because the Court below has also

referred to the materials on record and has noted that no prima facie case was made out by the Petitioners. It has then noted that the Petitioners were claiming through their mother who had inherited the share of Narayan; who was already party to the Suit. It has also found that provisions of Order XXI Rule 29 of the Code of Civil Procedure, 1908 cannot be invoked at the instance of the Petitioners who were not party to the earlier Suit, which has been decreed against their mother.

3. In the circumstances, at this interlocutory stage, no interference in exercise of writ jurisdiction is warranted. Dismissed.

A.M.KHANWILKAR, J.